

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

ALIYAH GOLDENBERG,

Complainant,

and

WATERTOWER SURGICENTER, LLC.
d/b/a WATERTOWER SURGICENTER,

Respondent.

Charge No.: 2008CF3040

EEOC No.: 21BA81855

ALS No.: 09-0730

Judge William J. Borah

RECOMMENDED ORDER AND DECISION

On December 17, 2009, the Illinois Department of Human Rights ("Department") filed a Complaint on behalf of Complainant, Aliyah Goldenberg, against Watertower Surgicenter, LLC. d/b/a Watertower Surgicenter. The Complaint alleges Respondent sexually harassed Complainant.

This matter comes to be heard, *sua sponte*, on my motion to dismiss for want of prosecution. On March 17, 2010, Complainant appeared and requested time to retain an attorney. On April 21, 2010, Complainant failed to appear at a status hearing as ordered. On April 21, 2010, an order was mailed to Complainant setting a status hearing for May 5, 2010. That order requested that Complainant report to the Commission whether she still intended to proceed with her case. On May 5, 2010, Complainant failed to appear for the set status hearing.

The Department is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is named herein as an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter.

1. The Complaint in this matter was served upon Mr. Brian Ekstrom from the Law Firm

of Pappas, Hubbard, O'Connor, by certified mail, on December 21, 2009.

2. The initial status hearing in this matter was March 17, 2010. On March 17, 2010, Complainant appeared, *pro se*, and requested time to retain an attorney. Respondent failed to appear. An order was entered setting a status hearing for April 21, 2010.

3. On April 21, 2010, Complainant and Respondent failed to appear. On April 21, 2010, an order was mailed to Complainant setting a status hearing for May 19, 2010. The Order requested Complainant to report to the Commission whether she still intended to proceed with her case, and warned that failure to attend the hearing could result in her case being dismissed. The April 23, 2010, Order was also served on the Respondent with a similar warning.

4. On May 19, 2010, neither party appeared for the set status hearing.

CONCLUSIONS OF LAW

1. Complainant's failure to participate at two scheduled hearings set for April 21, 2010 and May 19, 2010, and her failure to respond to orders entered have unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of her claim, the complaint in this matter should be dismissed with prejudice.

DISCUSSION

Complainant was given notice of the initial hearing date of March 17, 2010, and appeared. On April 21, 2010, Complainant failed to appear at the scheduled status hearing. Complainant was ordered to either dismiss her case or explain her absence by May 19, 2010. Complainant has failed to comply with the April 21, 2010, order. Complainant's inaction has unreasonably delayed the proceedings in this matter.

For reasons unknown, it appears that Complainant has simply abandoned her claim. As a result, it is appropriate to dismiss her claim with prejudice. See e.g., Leonard and Solid Matter, Inc., IHRC, ALS No. 4942, August 25, 1992.

RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned her claim. Accordingly, it is recommended that the Complaint in this matter and the underlying charge of discrimination be dismissed in their entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
WILLIAM J. BORAH
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: May 20, 2010